

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5923 of 2016

1. Vikash Kumar Tigga, Son of Sri Mukul Oraon, Resident of Kayasth Tola, Ward No. 28, Police Station Saharsa, District - Saharsa

.... Petitioner

Versus

- 1. The State of Bihar, through the Principal Secretary, Higher Education, Government of Bihar, Patna
- 2. The Principal Secretary, Higher Education, Government of Bihar, Patna
- 3. Bhupendra Narayan Mandal University, through the Vice Chancellor Bhupendra Narayan Mandal University Laloo Nagar, Madhepura, District - Madhepura
- 4. The Vice Chancellor Bhupendra Narayan Mandal University Laloo Nagar, Madhepura, District - Madhepura
- 5. The Examination Controller, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura, District - Madhepura
- 6. The Principal, Millia Institute of Technology, Rambagh, Purnea

.... Respondents

Appearance :

For the Petitioner : Mr. Satish Kumar Singh
Mr. Dinesh Maharaj
For the State : Mr. Kameshwar Kumar, G.P. 17
Mr. S. K. Ranjan, AC to GP 17
For the University : Mr. Mithilesh Kumar Rai

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 25-04-2017

The petitioner seeks a direction to the respondent- Bhupendra Narayan Mandal University, Madhepura, to publish his B. Tech. (Final) result.

2. A counter affidavit has been filed on behalf of the respondent-University, from which it appears that the facts are



not, at all, in dispute. The petitioner was student of B. Tech., with his Roll No. 2955, and Registration No. 36002/2011. He had participated in B. Tech., 2nd Year Mechanical Engineering Examination, 2011, but he failed to appear in the 4th paper of the said B. Tech., 2nd Year Mechanical Engineering Examination, because of his illness. He, thereafter, appeared in the said paper in 2012 and cleared it. Subsequently, he appeared successfully in 3rd and 4th Year examinations. His result has been withheld by the University due to pendency of his result of 2nd Year Mechanical Engineering Examination, apparently because he was absent in the 4th paper of B. Tech., 2nd Year Mechanical Engineering Examination. This is also not in dispute that the petitioner had cleared the said 4th paper of 2nd year examination, subsequently in the year 2012. There is, thus, no dispute about the fact that the petitioner has cleared all the papers.

3. My attention has been drawn to B. Tech. Regulation, Regulation 12 (i) of which read thus:

“12 (i) If at any examination, a candidate passes in sessional work but fails in not more than three subjects he may be promoted to the next higher class. Such candidate shall be required to appear and pass in the written papers of the subject(s) in which he has failed, in the next examination along with the subjects of the next higher class. If he/she fails in



more than three subjects, he/she may appear as non-collegiate candidate in the subsequent examination, but shall have to appear in all the subjects. If he/she fails in sessional work, he/she has to take re-admission."

4. On a bare reading of the said regulation, it is evident that if at any examination, a candidate passes in sessional work, but fails in not more than three subjects, he may be promoted to next higher class. Such student is, however, required to appear and to pass in the written papers of the subject, in which he has failed, in the next examination, along with his subjects of the next higher class.

5. The only difference, which is being tried to be made out on behalf of the University in the case of the petitioner is that he had not failed; rather he was absent in one of the papers of 2nd Year examination.

6. The stand taken on behalf of the University has no merit at all. The consequence of a person, who absents in any paper or examination, is that he would fail in the said paper or examination. Accordingly, consequence of petitioner's absence for any reason in one of the papers is that he failed in the said examination, in the year 2011. This is also not in dispute that in the year 2012, he cleared the said paper with the papers of the '*next higher class*', i.e. B. Tech. 3rd Year Examination.



7. In my view, therefore, Regulation 12 (i) of the B. Tech. Regulation applies in the case of the petitioner also.

8. The Controller of Examination and the Registrar of the University are directed to issue mark sheet and other necessary certificate(s) in favour of the petitioner of having passed B. Tech. examination, within a period of one month from the date of receipt/production of a copy of this order.

9. This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.04.2017
Transmission Date	N.A.

